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10/751,582	01/05/2004	Telmo Olavo Campos		3109

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Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

EXAMINER

GRAHAM, GARY K

ART UNIT PAPER NUMBER

1744

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,582

Applicant(s)

CAMPOS, TELMO OLAVO

Examiner

Gary K. Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Upon reconsideration, the indicated allowability of claims 2-9 is hereby withdrawn. An action follows.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **37 and 38**. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, **the axel** connecting the first and second main wheel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 10 sets forth “the first or second end wheel”. However, “end wheel” has not been clearly set forth in the written description.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

There does not appear disclosure of an axel connecting the first and second main wheels. Further, as the retainers must be capable of swinging in opposite directions, it does not appear that there could be an axel making such connection. Clarification is requested.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 7 and 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, line 2, there is no antecedent basis for "each respective end wheel". Also, in line 1, it appears "wheel" should be ---wheels--- for proper grammar.

In claim 7, line 1, there is no antecedent basis for "the first and second gear wheel". In line 2, there is no antecedent basis for "the end wheel".

In claim 10, lines 7-8, there is no antecedent basis for "the first or second end wheel". Further, it should be noted that each main wheel does not shift to the first or second end wheel. It would appear the each drive wheel should be set forth as having first and second end gears. Then the main wheels can be set forth as shifting to respective first or second end wheel (gear).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Luders (US patent 2,783,487).

The patent to Luders discloses the invention as is claimed, including a sweeper (fig.1) having a case (20) with socket (88) for receiving a handle (not shown but disclosed), a first main wheel (43,44), a brush wheel (66) driven by the main wheel in a clockwise direction irrespective of the main wheel rotation direction and a plurality of intermediate wheels/gears translating spinning motion from the main wheel to the brush wheel. Said intermediate wheels include first wheel (65), second wheel (62) and third wheel (57) which are all capable of simultaneous and non-slip spinning in both clockwise and counterclockwise directions. Said third wheel (57) is in direct contact with both the first wheel (65) and the brush wheel (66), at least in the forward direction of sweeping. Note that the first, second and third wheels are all in gear form.

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Claims 1, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Liebscher (US patent 3,638,267).

The patent to Liebscher discloses the invention, a sweeper, as is claimed, including a main wheel (7, fig.1) capable of spinning in both counterclockwise and clockwise directions to rotate a brush wheel (6) in a counter clockwise direction irrespective of the direction of the main wheel. A plurality of intermediate or end wheels (10,11,12), each comprised of a gear on a shaft, translate the motion of the main wheel to the brush wheel. The main wheel is capable of automatically shifting to one of the intermediate or end wheels such that unidirectional rotation of the brush wheel is maintained. Each of the wheels is "capable" of simultaneous and non-slip spinning. A dust pan (13) is provided between the brush wheels (6,6a) to hold the debris that is picked up.

With respect to claim 11, note retainer (5b) for holding the main wheel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebscher (US patent 3,638,267).

The patent to Liebscher discloses all of the above recited subject matter with the exception of the dust pan being semicircular in shape and a rear wheel supporting the rear of the case.

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While Liebscher discloses a dust pan that is somewhat U-shaped in cross section (fig.1), to slightly change the shape does not appear to involve invention. Mere changing of the shape of the dust pan does not appear significant or anything more than one of numerous configurations a person of ordinary skill in the art would find obvious for the purpose of providing a dust pan to the sweeper. Minor changes in shape, lacking some criticality, do not appear to involve invention.

With respect to claim 13, while Liebscher only discloses two main wheels (7) on one side of the sweeper, it would appear a mere duplication of parts to provide a main wheel on each end (for a total of four main wheels) of the brush wheel, to ensure consistent driving of the brush wheel during sweeping. It would have been obvious to one of skill in the art to provide four main wheels and thus gear combinations to promote increased driving of the brushes. Thus, one of the drive wheels could be considered a rear support wheel.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebscher (US patent 3,638,267) in view of Christesen (US patent 1,972,870).

The patent to Liebscher discloses all of the above recited subject matter with the exception of a handle.

The patent to Christesen discloses using a handle (21) with a floor sweeper (fig.1), as is well known.

It would have been obvious to one of skill in the art to provide the sweeper of Liebscher with a handle, as clearly suggested by Christesen, to enable increased use of the sweeper at remote distances.

Response to Arguments

Applicant's arguments filed 31 May 2005 have been fully considered but they are not persuasive.

Applicant argues that Liebscher does not have a plurality of intermediate wheels. However, as set forth above, Liebscher does include a plurality of wheels comprised of gears (10,11,12) on shafts provided between the gear of the main wheel (7) and the brush wheel (6). Also, as set forth above, it appears that Luders meets some of the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in dark ink, appearing to read "Gary K. Graham". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary K Graham
Primary Examiner
Art Unit 1744

GKG
08 August 2005